

**From:** Yannayon.Laura@epamail.epa.gov  
**Sent:** Tuesday, June 01, 2010 1:05 PM  
**To:** Tracy Walters  
**Cc:** cgallens@arb.ca.gov  
**Subject:** Re: MDAQMD Rule 219

**Attachments:** EPA MD 219 d3.doc  
Hi Tracy,

I am attaching a copy of Rule 219 with EPA edits and comments embedded using Word's track changes feature.

I am also a little confused about the SIP status of Rule 219. I see at the end of the rule that you site the FR notice for Riverside and SB counties, but didn't the SC SIP version become your applicable regulation when Mojave was created as a District? I checked and our Web SIP log does not show this, but I am wondering if it is an error.

Depending on what is in the SIP, any new exemptions must be evaluated in light of the 110(l) SIP approval requirement, often called the anti-back sliding provision. In the past, we did not evaluate NSR related rules under this provision, but due to a court case lost by EPA, we must now evaluate all NSR rules under this provision. Also, all exemptions from permit requirements must meet 51.160 (e), which generally requires a District to show that even though no permits are required for the specified equipment, such equipment will not cause a violation of the NAAQS and are not subject to any SIP control requirements.

My only other general comment has to do with defined terms. A rule submitted for SIP approval can only reference other rules that are also in the SIP or submitted for SIP approval, thus several references will need to be changed in this rule. I also made a suggestion that the rule provide a definition header that states unless defined below, the definitions of Rule 1301 or 1201 apply, which will cover all the misc. use of terms within the rule and eliminate the need for you to cite the reference to a defined term within the subsection in the rule. FYI.

I think most comments are clear, but if you have any questions, please call me to discuss.

Laura Yannayon  
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US EPA, Region 9 / Air Division, Permits Office (Air-3) / 75 Hawthorne St. / San Francisco, CA 94105-3901  
yannayon.laura@epa.gov / (415) 972-3534 / (415) 947-3579 (fax)

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**From:** Tracy Walters <twalters@mdaqmd.ca.gov>  
**To:** Laura Yannayon/R9/USEPA/US@EPA  
**Date:** 05/26/2010 03:09 PM  
**Subject:** MDAQMD Rule 219

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Good afternoon Laura,

Here is the word version of Rule 219.

Tracy Walters  
Mojave Desert AQMD  
Lead Air Quality Planner  
(760) 245-1661 extension 6122  
[attachment "MD 219 d3.doc" deleted by Laura Yannayon/R9/USEPA/US]

file://\airqsvr12\Public Docs\AIRQSVR04\RuleDev\MD Rules\MD AG Rules\219\Corres... 6/14/2010

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## District response to EPA email 1

Comment: What is the SIP Status of Rule 219?

District Response: The SIP for MDAQMD is confusing due to the fact that the SIP “runs with the land” and is attached to attainment areas rather than air district boundaries. Thus the San Bernardino County and Riverside Co portions of our districts must be analyzed separately to determine exactly which rule is the SIP version for what area of the District. The SIP information at the end of our rules tends to be San Bernardino County specific. Unfortunately, updating this information has not been a high priority. There is, however an alternative source of SIP information provided on our website. (see <http://www.mdaqmd.ca.gov/Modules/ShowDocument.aspx?documentid=45> ). As more completely explained in the staff report (pgs 11-13) our records indicate the following:

### San Bernardino County Area:

- Original Rule 219 Adopted 1/9/76 by So. Cal APCD (JPA covering SB, Riverside, LA & Orange Counties)
- Rule 219 amended 10/8/76 by So. Cal APCD
- Legislative Action created SCAQMD in the south coast air basin ONLY as of 2/1/77 (Note outlying areas remained under So. Cal APCD because JPA was NOT dissolved)
- CARB Executive Order G-73 of 1977 adopted 2/1/77 (Created “rulebook” for non-SCAB Areas of LA, Riverside & San Bernardino Counties)
- On 2/22/77 the JPA was dissolved and the Rule version reverted to the 10/8/76 So. Cal. APCD version.
- A version of 219 was approved into the SIP on 11/9/78 43 FR 52237 (Given the list of rules we presume that this was the G-73 version but it could have been the 10/8/76 version (luckily they are similar if not identical)
- We submitted subsequent versions but no action was ever taken on any of them until the Title V program approval on 10/15/2002 67 FR 63551
- The most recent amendment submitted was 4/25/05.

### Riverside County Area:

- Original Rule 219 Adopted 1/9/76 by So. Cal APCD (JPA covering SB, Riverside, LA & Orange Counties)
- Rule 219 amended 10/8/76 by So. Cal APCD
- Legislative Action created SCAQMD in the south coast air basin ONLY as of 2/1/77 (Note outlying areas remained under So. Cal APCD because JPA was NOT dissolved)
- CARB Executive Order G-73 of 1977 adopted 2/1/77 (Created “rulebook” for non-SCAB Areas of LA, Riverside & San Bernardino Counties)
- On 2/22/77 the JPA was dissolved and the Rule version reverted to the 10/8/76 So. Cal. APCD version.
- Riverside County “opts in” to SCAQMD as a result of a legislative change in 1978.
- A version of 219 was approved into the SIP on 11/9/78 43 FR 52237 (Given the list of rules we presume that this was the G-73 version but it could have been the 10/8/76 version (luckily they are similar if not identical)

- SCAQMD submitted subsequent versions and the version submitted 10/23/81 was approved on 7/6/1982 47 FR 29
- On July 1, 1994 the Blythe/Palo Verde Valley region changed from SCAQMD to MDAQMD
- The 12/21/94, 10/23/00 were submitted by MDAQMD and would have automatically covered this region.
- No action was taken on these versions until the Title V program approval on 10/15/2002 67 FR 63551
- The most recent amendment submitted was 4/25/05.

Therefore, the G73 version for SB and the 9/4/81 SCAQMD version for Riverside are the last direct SIP approval actions. Copies of the G-73 version and the version for SCAQMD contained in the 1994 SIP book as prepared by your agency as well as the referenced FR notices have been provided to your agency for your reference.

Please note, however, that Rule 219 has also been approved by USEPA action as part of the District's Title V program (68 FR 65637, 11/21/2003). Thus, the 10/23/2000 version is fully federally enforceable. Therefore, unless otherwise directed by USEPA the District will perform the 110(l) determination based upon differences between the 10/23/2000 version and the current proposed amendments.

Comment: To use cross references in defining terms such terms must be contained in SIP approved rules.

District Response: Comment noted.

EPA comment email 1 (contained in  
attachment: EPA MD 219 d3.doc)

EPA MD 219 d3.doc

Main document changes and comments		
1-1	<b>Page 1: Comment [LAY1]</b> How does anyone know if it is listed solely due to size or production rate? Shouldn't this read that the exemption is not based on size or production rate? This is consist with Title V WP policies.	Laura Yannayon 6/1/2010 12:54:00 PM
1-2	<b>Page 1: Comment [LAY2]</b> If this is limited to NA pollutants, then a permit is required at all emission rates for attainment pollutants?	Laura Yannayon 6/1/2010 12:54:00 PM
1-3	<b>Page 1: Comment [LAY3]</b> A definition needs to be provided in this rule or another SIP rule.	Laura Yannayon 6/1/2010 12:54:00 PM
1-4	<b>Page 1: Comment [LAY4]</b> I changed this because it does not work well with the wording in (D)(2)(a), which states that to be eligible for the exemption, a source must always have "less than" the following number of animals. This issue could also be addressed by revising (D)(2)(a), but they should be able to be read together in a way that makes sense as to what exactly is exempt.	Laura Yannayon 6/1/2010 12:54:00 PM
1-5	<b>Page 1: Comment [LAY5]</b> Where is this defined?	Laura Yannayon 6/1/2010 12:54:00 PM
1-6	<b>Page 1: Comment [LAY6]</b> Wouldn't almost all sources be subject to your VE rule? I deleted the citation to CH&S code, because it is not in the SIP and is not needed here.	Laura Yannayon 6/1/2010 12:54:00 PM
1-7	<b>Page 1: Comment [LAY7]</b> Since this rule relies on a lot of definitions in other rules, I suggest adding language here that states that unless defined below, the definitions in Rules 1301 and 1201 apply, in that order. This way you do not need to cite to these rules each time you use a defined term, and it covers other common terms like "Major Facility" used in (B)(3)(c).	Laura Yannayon 6/1/2010 12:54:00 PM
1-8	<b>Page 1: Comment [LAY8]</b> This rule has not been submitted for SIP approval, therefore references to it cannot be used. Please define this term within this rule.	Laura Yannayon 6/1/2010 12:54:00 PM
1-9	<b>Page 1: Comment [LAY9]</b> Is this, and/or any of the specific other terms... laying hen vs chicken, defined anywhere?	Laura Yannayon 6/1/2010 12:54:00 PM
1-10	<b>Page 1: Comment [LAY10]</b> These values look like ½ major source thresholds, which correspond to subsection (a), not (c). Please correct.	Laura Yannayon 6/1/2010 12:54:00 PM
1-11	<b>Page 1: Comment [LAY11]</b> For definitions, I strongly discourage the inclusion of the subsection, since this may change with time, and it is adequate to cite and find the term in an alphabetized definition section.	Laura Yannayon 6/1/2010 12:54:00 PM
1-12	<b>Page 1: Comment [LAY12]</b> Shouldn't this "or" be retained? Applicability is based on 1, 2 or 3, correct?	Laura Yannayon 6/1/2010 12:54:00 PM
1-13	<b>Page 1: Comment [LAY13]</b> This rule has not been submitted for SIP approval, and thus cannot be referenced in this rule. Please provide a definition in this rule, or a different citation.	Laura Yannayon 6/1/2010 12:54:00 PM
1-14	<b>Page 1: Comment [LAY14]</b> Is this defined anywhere?	Laura Yannayon 6/1/2010 12:54:00 PM
1-15	<b>Page 1: Comment [LAY15]</b> Aggregated?	Laura Yannayon 6/1/2010 12:54:00 PM
	<b>Page 1: Comment [LAY16]</b>	Laura Yannayon 6/1/2010 12:54:00 PM

1-16	I removed portable because it is not defined, and real basis for exemption is if unit is registered under state PERP. I also deleted reference to H&SC, since this criteria would already be included in who qualifies for PERP.
1-17	<b>Page 1: Comment [LAY17]</b> Laura Yannayon 6/1/2010 12:54:00 PM The staff report should discuss what expected emissions are from these units, and why there is no reason to limit the size.
1-18	<b>Page 1: Comment [LAY18]</b> Laura Yannayon 6/1/2010 12:54:00 PM The staff report must discuss what expected PM10 and PM2.5 emissions would be to justify this exemption.
1-19	<b>Page 1: Comment [LAY19]</b> Laura Yannayon 6/1/2010 12:54:00 PM Two thoughts. The exemptions don't apply if lead is used as an alloy, but Lead itself is exempt? This doesn't make sense. Second, EPA is working on a new Lead NAAQS standard... if it is adopted before this rule is approved into SIP, the District may need to provide a justification for this exemption threshold for Lead.
1-20	<b>Page 1: Comment [LAY20]</b> Laura Yannayon 6/1/2010 12:54:00 PM The District should review each of these provisions in light of PM10 and PM2.5 requirements to determine if they should be modified because of emissions of these pollutants.
1-21	<b>Page 1: Comment [LAY21]</b> Laura Yannayon 6/1/2010 12:54:00 PM How is compliance with this limit verified?
1-22	<b>Page 1: Comment [LAY22]</b> Laura Yannayon 6/1/2010 12:54:00 PM How does an ingredient exceed a temperature? Do you mean that each ingredient is not heated above this temp?
1-23	<b>Page 1: Comment [LAY23]</b> Laura Yannayon 6/1/2010 12:54:00 PM Are these exemption thresholds consistent with the exemptions in your solvent cleaning rule? Just a thing to verify.
1-24	<b>Page 1: Comment [LAY24]</b> Laura Yannayon 6/1/2010 12:54:00 PM Nothing newer?
1-25	<b>Page 1: Comment [LAY25]</b> Laura Yannayon 6/1/2010 12:54:00 PM So no permit is required for spray coating that occurs in a PSB? What is the basis for this exemption? It seems it could emit a lot of VOCs?
1-26	<b>Page 1: Comment [LAY26]</b> Laura Yannayon 6/1/2010 12:54:00 PM Newer?
1-27	<b>Page 1: Comment [LAY27]</b> Laura Yannayon 6/1/2010 12:54:00 PM Newer?
1-28	<b>Page 1: Comment [LAY28]</b> Laura Yannayon 6/1/2010 12:54:00 PM A permit is needed if subject to (i). The other two already have APCO discretion, so if the APCO makes those determinations, then a permit "shall" be required.
1-29	<b>Page 1: Comment [LAY29]</b> Laura Yannayon 6/1/2010 12:54:00 PM Under federal law, there is enforcement liability for up to 5 years, therefore EPA suggests maintaining 5 years of records. Of course Title V may also cover this. FYI.
1-30	<b>Page 1: Comment [LAY30]</b> Laura Yannayon 6/1/2010 12:54:00 PM I found this citation for Riverside and SB counties... but didn't SC rule 219 become part of Mojave's SIP when the District was created? Please clarify. We need to determine which SIP approved rule is to be used for making any 110(l) determinations.

District responses to EPA comment email 1 (comments contained in attachment: EPA MD 219 d3.doc)

1-1 [Comment Pertains to §(B)(2)(d)] Section (B)(2)(d) was based upon the wording found in 40 CFR 70.5(c) which reads as follows:

(c) *Standard application form and required information.* The State program under this part shall provide for a standard application form or forms. Information as described below for each emissions unit at a part 70 source shall be included in the application. The Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to §70.9 of this part. The permitting authority may use discretion in developing application forms that best meet program needs and administrative efficiency. The forms and attachments chosen, however, shall include the elements specified below:...(Emphasis added)

Please note that some of the specific exemptions listed in Subsection (E) are straight exemptions usually jurisdictional in nature (see (E)(1)(c) exempting locomotives, airplanes and watercraft used to transport passengers or freight) while others are clearly based on a size or production rate limitation (see (E)(2)(a) exempting Internal Combustion Engines less than 50 bhp and (E)(4)(c) exempting Water cooling tower with a circulation rate of less than 10,000 gallons/minute respectively). Historically in administering its Title V program the District has interpreted only those sections of Rule 219(E) which contain a size or production rate mention to be limited “solely due to size or production rate”. Thus, under the questioned section, a Title V applicant would not need to list a locomotive running on its property however it would need list a water cooling tower but show that said tower happened to have a circulation rate of less than 10,000 gallons/minute. This interpretation has been used since the adoption and approval of the District’s Title V program (68 FR 65637 11/21/2003).

If USEPA has subsequent written guidance regarding interpretation and/or language necessary to properly implement 40 CFR 70.5(c) the District will be happy to revise such language in accordance with the specific provisions of such written guidance. Until such time as particular written guidance is provided to the District, the District would prefer not to modify language that is clearly understood by persons currently using the rule.

1-2 [Pertains to §(B)(3)(a)] District Rules 201 and 203, as referenced in (B)(3), give the District the authority to permit any equipment, the use of which may cause the issuance of air contaminants or the use of which may reduce or control the issuance of air contaminants. Thus, limiting the exclusion to “nonattainment air contaminant” is indeed confusing especially given the reference to “regulated air pollutant” in subpart (D)(2)(b) and its cross reference to District Rule 1301. The word “nonattainment” has been removed.

1-3 *[Pertains to §(B)(3)(b)]* A definition for Confined Animal Facility will be included in Rule 1186 to read “A facility where animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial purposes and primarily fed by a means other than grazing for at least forty-five (45) days in any twelve (12) month period.” Rule 1186 will be adopted in a separate action and submitted as a SIP revision.

1-4 *[Pertains to §(B)(3)(b)]* As currently worded this section is confusing. Section has been revised to more closely match wording found in Subsection (D)(2)(a).

1-5 *[Pertains to §(B)(3)(c)]* Subsection has been revised to read “as defined in Rule 1302.”

1-6 *[Pertains to §(B)(3)(d)]* Subsection has been revised to reference the Federal Clean Air Act (42 U.S.C. Sec. 401 et seq. rather than the Health & Safety Code.

1-7 *[Pertains to §(C)]* Language added to reference definitions contained in Rule 1301 and 1201.

1-8 *[Pertains to §(C)(1)]* Definition for Agricultural Operation added.

1-9 *[Pertains to §(D)(2)(a)]* These terms are not defined in SB 700 of 2004 or regulations promulgated thereunder and appear to be clear in their scope and usage in the agricultural industry.

1-10 *[Pertains to §(D)(2)(b)]* Reference to (c) corrected to (a).

1-11 *[Pertains to §(D)(2)(b)(i)]* Subsection reference removed as requested.

1-12 *[Pertains to §(D)(2)(b)(ii)]* This “or” can be removed since section (D)(2)(b) requires that an agricultural facility must emit less than “any” of the following subsections.

1-13 *[Pertains to §(D)(2)(b)(iii)]* Definition for “Hazardous Air Pollutant” has been added.

1-14 *[Pertains to §(E)(2)(a)]* Definition for “International Standardization Organization (ISO) Standard Day Conditions” is not necessary in the SIP since this is a standard engineering term.

1-15 *[Pertains to §(E)(2)(a)]* “Accumulated” has been changed to “aggregated” in subsections (E)(2)(a) and (b) as requested.

1-16 *[Pertains to §(E)(2)(d)]* Term “Portable” and the reference to the H&S Code section have been removed as requested.

1-17 *[Pertains to §(E)(2)(e)]* Fuel Cell emissions are discussed in the Staff Report section (VI)(B)(1).



1-18 [Pertains to §(E)(4)(c)] Since water has both mass and volume circulation rate will per se limit the physical size of a particular unit. Expected PM10 and PM2.5 emissions discussed in Staff Report section (VI)(B)(2).

1-19 [Pertains to §(E)(5)(b)] The District will provide justification for this exemption if the new lead NAAQS standard is adopted prior to the amendment of this rule. The District will modify this exemption if necessary if and when the new lead NAAQS are adopted.

1-20 [Pertains to §(E)(7)] These provisions are discussed in the Staff Report section (VI)(B)(3).

1-21 [Pertains to §(E)(10)(a)] Section (F)(1) of the rule requires any person claiming exemption under provisions of the rule to provide adequate records and any applicable MSDSs to verify and maintain exemption.

1-22 [Pertains to §(E)(11)(d)] This section modified to read operation temperature rather than the ingredient temperature for clarification.

1-23 [Pertains to §(E)(13)(j)] The exemption thresholds in this section are consistent and do not conflict with District Rule 442 – *Solvent Cleaning Operations* or Rule 1104 – *Organic Solvent Degreasing Operations*. Rule 219 identifies sources that require a permit, while Rule 1104 requirements apply to any facility engaged in wipe cleaning, cold solvent cleaning and/or vapor cleaning (degreasing) operations for metal/non-metal parts/products or electronic circuit boards, which utilize volatile organic solvents.

1-24 [Pertains to §(E)(13)(j)(ii)] Previous EPA comments indicated that the versions of the ASTM tests that are included in the SIP-approved version of the rule should not be changed (See amendment of Rule 1159 – Stationary Gas Turbines, June 3, 2009).

1-25 [Pertains to §(E)(13)(n)] Paint spray booths are permitted. Paint spraying equipment exclusively operated within a paint spray booth may be exempted. The paint spray booth controls the VOC emissions from exempted spray coating equipment used within the control enclosure. Paint spray boots are equipped with RACT at a minimum and many of them are equipped with BACT or better due to the application of District Rule 1303(A).

1-26 [Pertains to §(E)(14)(a)(i)] Previous EPA comments indicated that the versions of the ASTM tests that are included in the SIP-approved version of the rule should not be changed (See amendment of Rule 1159 – Stationary Gas Turbines, June 3, 2009).

1-27 [Pertains to §(E)(14)(a)(ii)] Previous EPA comments indicated that the versions of the ASTM tests that are included in the SIP-approved version of the rule should not be changed (See amendment of Rule 1159 – Stationary Gas Turbines, June 3, 2009).

1-28 [Pertains to §(E)(15)(a)] “May” has not been changed to “shall” due to wording contained in various NSPS and NESHAPs which allow local discretion in permitting certain smaller sized sources.

1-29 *[Pertains to §(F)(1)]* Record retention has been increased from two (2) years to five (5) years.

1-30 *[Pertains to SIP History following rule]* Please see District response to EPA email 1. .  
*SIP information has been revised now cross-references the appropriate SIP table.*

**STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
AIR RESOURCES BOARD**



P. O. Box 2815  
Sacramento, California 95812

June 10, 2010

**ARB Staff Rule Review Results**

**To:** Ms. Tracy Walters, Air Quality Planner  
Mojave Desert Air Quality Management District  
Telephone Number: (760) 245-1661 ext 6122  
e-mail: twalters@mdaqmd.ca.gov

**From:** Patrick Au, (916) 322-3303  
e-mail: pau@arb.ca.gov

The following proposed rule, which is scheduled for a public hearing to be held by your District Board on June 28, 2010, was received by us on May 13, 2010, for our review:

Rule 219      Equipment Not Requiring a Permit

The Air Resources Board staff has reviewed the rule and, based on the information available to us at this time, we have no comment. The rule was examined by the Stationary Source Division.

If you have any questions, please contact me by e-mail or at the telephone number above.

## District Response to Comment Letter 2

No response required.

EPA comment email 3 (contained in attachment: 219 Staff Report d2.pdf)

## Summary of Comments on 219 Staff Report d2

Page: 26

3-1

Author: LYANNAYO Subject: Sticky Note Date: 8/2/2010 9:38:22 AM  
"having a number" implies you have to have the exact number. Please clarify if you have to have more or less than the number specified. Please review my Comment #4 again. Since D2a references the "less than" requirement, you could also remove the reference here to # of animals to make it work.

Author: LYANNAYO Subject: Cross-Out Date: 8/2/2010 9:37:30 AM

3-2

Author: LYANNAYO Subject: Sticky Note Date: 8/2/2010 9:34:35 AM  
Given this header statement, the reference to Rule 1301 in (B)(3)(c) is not necessary. Just a FYI, if you choose to delete such references, I would encourage you to do so through out the rule.

District responses to EPA comment email 3 (comments contained in attachment: 219 Staff Report d2.pdf)

- 3-1 Section (B)(3)(b) has been clarified to agree with (D)(2)(a). There is no reference to the number of animals in Section (B)(3)(b).
- 3-2 References to Rules 1201 and 1301 in sections (B)(2)(c), (D)(1)(a)(i) and (D)(1)(a)(ii) have been removed. Also removed definitions for Hazardous Air Pollutant and Volatile Organic Compound (VOC) as both definitions are contained in Rule(s) 1201/1301.

**STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
AIR RESOURCES BOARD**



P. O. Box 2815  
Sacramento, California 95812

August 16, 2010

**ARB Staff Rule Review Results**

**To:** Ms. Tracy Walters, Air Quality Planner  
Mojave Desert Air Quality Management District  
Telephone Number: (760) 245-1661 ext 6122  
e-mail: twalters@mdaqmd.ca.gov

**From:** Patrick Au, (916) 322-3303  
e-mail: pau@arb.ca.gov

The following proposed rule, which is scheduled for a public hearing to be held by your District Board on August 23, 2010, was received by us on July 30, 2010, for our review:

**Rule 219      Equipment Not Requiring a Permit**

The Air Resources Board staff has reviewed the rule and, based on the information available to us at this time, we have no comment. The rule was examined by the Enforcement Division, and by the Stationary Source Division.

If you have any questions, please contact me by e-mail or at the telephone number above.

#### District Response to Comment Letter 4

No response required.